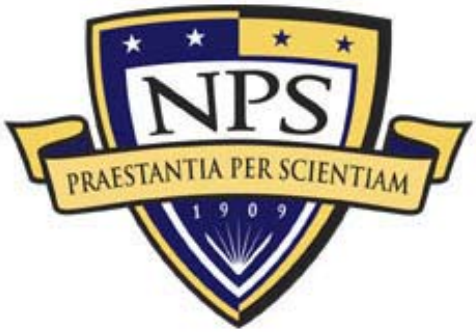


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**MONTEREY, CALIFORNIA**

# THESIS

**COUNTERPROLIFERATION STRATEGY: THE ROLE OF PREVENTIVE WAR, PREVENTIVE STRIKES, AND INTERDICTION**

by

Claire E. Rak

September 2003

Thesis Advisor: Peter R. Lavoy
Second Reader: James A. Russell

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This thesis analyzes the potential effectiveness of preventive war, preventive strikes, and interdiction as tools for the United States to counter the proliferation of weapons of mass destruction (WMD). Examination of these three counterproliferation techniques is important because the George W. Bush administration has given more prominence to military operations to deal with WMD threats. Six historical cases of preventive war, preventive strikes, and interdiction, against adversarial WMD programs are examined to show the conditions that make military options desirable and effective and the issues that make their implementation difficult. These case studies reveal that interdiction and preventive strikes are viable and can be effective under very limited legal, political, and military circumstances. Although the United States successfully conducted a preventive war against Saddam Hussein's Iraq, this strategy is not likely to succeed in the cases of Iran and North Korea.

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# COUNTERPROLIFERATION STRATEGY: THE ROLE OF PREVENTIVE WAR, PREVENTIVE STRIKES, AND INTERDICTION

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Submitted in partial fulfillment of the
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# ABSTRACT

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# I. INTRODUCTION

## A. PURPOSE

The strategy of preemption in U.S. counterproliferation policy is a controversial issue. As a result of the terrorist attacks on the World Trade Center and Pentagon on 11 September 2001, the Bush administration deemed that the problems associated with the global proliferation of weapons of mass destruction (WMD) were grave to continue efforts in traditional nonproliferation methods. Historically, WMD has been considered a weapon of last resort, but they are now according to the *National Strategy to Combat Weapons of Mass Destruction*, "militarily useful weapons of choice intended to overcome our nation's advantages in conventional forces and to deter us form responding to aggression against our friends and allies in regions of vital interest."[1] While there have been successes in countering WMD proliferation via foreign diplomacy, international treaties, technology interdiction, and traditional nuclear deterrence, these nonproliferation methods have proved ineffective in addressing the world's primary proliferators; global terrorists, Iran, North Korea, and previously Iraq. The new strategy asserts "terrorist groups are seeking to acquire WMD with the stated purpose of killing large numbers of our people and those of our friends and allies—without compunction and without warning."[2] The Bush administration believes that preemptive military action is a viable solution to the proliferation problem. The strategy of preemption encompasses not only preventive strikes against WMD targets, but also preventive war and the interdiction of WMD or dual-use materials. The controversy surrounding preventive war, preemption, and interdiction is primarily driven by the practicality, legality, and ethical implications of their use against adversaries of the United States. Preemptive military action requires careful consideration and planning and cannot be ordered against all adversaries attempting to acquire WMD. There have been, however, some successful instances where preemptive action has attained the desired result – the destruction or delay of a state's WMD program.

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[1] *The National Strategy to Combat Weapons of Mass Destruction*, December 2002, 1.

[2] Ibid., 1.

This paper will examine historical cases where preemptive or preventive action was or was not taken. Questions to be analyzed are, why those decisions were made, what the effects they had on policy making and counterproliferation efforts, and evaluate if preemptive action is an effective tool in U.S. counterproliferation policy.

## B. BACKGROUND

The Bush administration used aggressive rhetoric in public addresses to dissuade terrorists and rogue states from acquiring and using WMD, and specifically ordered a preventive war against Iraq to address its nuclear, chemical, biological programs. Published documents since the 11 September attacks reveal the Bush administration's lack of tolerance for ineffective nonproliferation policies and treaties that have failed to achieve the intended results. In the introduction of the National Security Strategy, President George W. Bush explained that inaction was no longer an option and how U.S. counterproliferation strategy was about to change:

> The gravest danger to freedom lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction, and evidence indicates that they are doing so with determination. The United States will not allow these efforts to succeed … History will judge harshly those who saw this coming danger but failed to act. In the new world we have entered, the only path to peace and security is the path of action.[3]

Three pillars comprise the *National Strategy to Combat Weapons of Mass Destruction*: counterproliferation to combat WMD use, strengthened nonproliferation to combat WMD proliferation, and consequence management to respond to WMD use. Such enhancements include, diplomatic interactions with friendly and adversary nations, strengthened arms control methods of nations seeking nuclear capabilities, engagement in multilateral agreements, offers of threat reduction assistance to neighboring nations, and tightened export control from existing nuclear states.

The document also entails the application of interdiction, deterrence, defense and mitigation in counterproliferation efforts. "U.S. military forces and appropriate civilian agencies must have the capability to defend against WMD-armed adversaries, including

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[3] *The National Security Strategy of the United States of America*, 17 September 2002, 1.

in appropriate cases through preemptive measures."[4] The purpose of the document is to endorse preemption as an effective last resort when all traditional non-military and diplomatic methods have failed. A counter-theory suggests that the "administration's new doctrine is largely designed for domestic consumption and is unlikely to be fully implemented because of various normative and practical constraints created by international institutions and politics."[5]

Addressing questions of whether preemptive action is feasible and whether it has potential for operational success is the first priority of consideration, but reviewing what long-term effects may occur from an offensive preemptive attack or interdiction is also important. The implications of engaging in preemptive action involve international law, foreign diplomacy and relations, and the role of the United States as the only global superpower. Examining theoretical questions will help judge the effectiveness of preemptive action. Determining the effects from historical cases of preemptive action may assist in estimating the proper course of action to address current and future WMD threats.

## C. SIGNIFICANCE

Countering WMD proliferation is a top U.S. national security interest. How preemption, preventive war, and interdiction, are used within the guidelines of operation plans to counter nuclear proliferation have great implications on U.S. security issues. Preemptive action can have multiple interpretations of how, when, and under what circumstances it is ordered. Therefore, the precise definitions of preemption, prevention, and interdiction are required.

By definition, to preempt is to prevent something from happening or taking place.[6] However, the policy perspective states that it "is nothing more than a quick draw. Upon detecting evidence that an opponent is about to attack, one beats the opponent to the punch and attacks first to blunt the impending strike."[7] For the purposes of this

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4 *The National Strategy to Combat Weapons of Mass Destruction*, December 2002, 3.

5 James Wirtz and James Russell, "U.S. Policy on Preventive War and Preemption," *The Nonproliferation Review* 10, no. 1 (Spring 2003): 113.

6 Definition taken from *Webster's Collegiate Dictionary*, 10th Edition, 1993.

7 Wirtz and Russell, "U.S. Policy on Preventive War and Preemption," 116.

paper, the term preemption will imply that the foreign WMD threat perceived by a state is serious enough to remove the threat by military force before it becomes operationally employed. Preventive war is based on the idea that war is inevitable, and that it is better to engage while the costs of war are low rather than high, which means that it is better to attack an adversary before it has the capability of using WMD in retaliation.[8] Besides destroying a state's WMD capabilities, this type of action can, in certain circumstances, remove the regime in power. Preventive strikes against individual targets associated with an adversary's WMD program are separate from the concept of preventive war. Preventive strikes are used specifically in the counterproliferation context to dismantle or disrupt a state's ability to advance its WMD program before it becomes an immediate threat. Interdiction of technology and materials related to nuclear programs offers the least destructive course of preemptive action. It targets the sharing of materials and information before they become operational and before combat operations are needed. Due to intelligence gaps, preparation and response times, legal issues of intercepting dual use technologies, and the intricacies of maritime law, using interdiction as a counterproliferation tool faces many challenges in implementation.

Preemptive force is typically associated with the overt use of military power. Covert actions by military and intelligence personnel are in some cases considered part of more extensive military actions and political goals. While covert action could be interpreted as a tool of preemption, the intent and outcomes of such actions are classified, and are therefore not included in the analysis of this paper.

The method of preemption is a component of a larger, broader counterproliferation strategy. Preemptive and preventive military action can only be used in very specific situations and cannot apply to all states attempting to acquire nuclear weapons. The preventive war strategy used against Iraq in 2003 may not necessarily be successful in curbing North Korea or Iran's nuclear programs. Analyzing historical events where preemption has or has not taken place against rogue WMD programs, could offer insight as to the potential effectiveness of the strategy against future nuclear threats.

[8] Ibid., 116.

## D. ORGANIZATION

Evaluating the costs and benefits of preemption can only be determined on an individual case basis. This thesis reviews three tools of U.S. counterproliferation strategy: preventive war, preventive strikes, and interdiction. Each chapter examines cases where preventive action was or was not ordered, why a particular course of action was taken, what effects the action had on policy-making, and what lessons were learned from the situation.

Chapter II reviews the use of preventive war as a counterproliferation tool and its potential for regime change. Two specific cases involving preventive war are examined: the Soviet Union after the Second World War and Iraq in Operation Enduring Freedom. The events that followed the end of the Second World War and the subsequent rise of the USSR as a nuclear power made a credible case for preventive war, but U.S. political influences led to the implementation of the containment strategy. The United States engaged in its first preventive war in 2003 against Iraq and the Saddam Hussein regime. The political, diplomatic, and legal implications surrounding the initial invasion through the close of combat operations serves as a basis for determining Operation Iraqi Freedom's successes and failures.

The third chapter analyzes historical cases of preventive strikes against adversarial nuclear programs. These cases include, the Allied attack on the German held Norsk-Hydro heavy water plant in Norway during the Second World War, the Israeli attack on Iraq's nuclear plant Osirak in 1981, and the proposed plan to strike the Lop Nur nuclear plant in China during the early days of the Johnson administration. Analysis of the case studies in this chapter concludes that preventive strikes, in the right circumstances, are an effective counterproliferation method.

Chapter IV examines the legal and operational challenges associated with interdiction, specifically maritime intercept operations (MIO) and international regulation of dual use technologies. The North Korean missile delivery to Yemen in 2002 serves as the case study for interdiction and examination of the future role of the newly organized Proliferation Security Initiative indicates the importance of interdiction to the world

community. Although the case study examined in the chapter was not a complete success, it demonstrated the potential utility of interdiction as a counterproliferation tool.

Chapter V offers conclusions about the effectiveness of preemptive and preventive tactics in counterproliferation strategy and identifies the challenges facing U.S. foreign policies and national security interest around the globe. Suggestions and recommendations for future courses of action against present and future threats are also reviewed.

# II. PREVENTIVE WAR

## A. INTRODUCTION TO PREVENTIVE WAR

When Operation Iraqi Freedom began on 19 March 2003, the United States had never engaged in a preventive war against another state.[9] Using preventive war as a strategy to counter weapons of mass destruction, more specifically nuclear weapons, development and proliferation is a delicate issue. Multiple considerations must be addressed before engaging in an attack, but the most important to answer is that all nonmilitary means of action, to include diplomatic intervention and negotiations, have been attempted to alleviate the threat. At the theoretical level, "preventive war is a possible strategy for democratic states if the expected costs are low, if the state has allies that might reduce these costs through diplomatic or military action, and if the state has few viable alternatives for dealing with relative decline."[10] Therefore, the use of preventive war as a tool for counterproliferation is only possible prior to the adversary gaining nuclear weapons, and initiating a winnable war before less favorable circumstances arise. Since WMD programs are initiated and directed by the regime in power, preventive war can often require removal of that regime in order to fully destroy the threat.

Two case studies of U.S. strategic considerations for preventive war are examined in this chapter: the Soviet Union and Iraq. Differing political circumstances and the application of alternate strategies towards each state, supports the theory that preventive action cannot be applied to states, such as North Korea and Iran, who are aggressively seeking nuclear weapon capabilities.

## B. CASE STUDY 1: THE SOVIET UNION

### 1. Early Considerations of Preventive War

In the immediate aftermath of the Second World War, U.S. officials and their British allies argued that the growing threat from the Soviet Union was justification for

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9 Richard F. Grimmett, "U.S. Use of Preemptive Military Force," Congressional Research Service document RS21311, 18 September 2002, 1.

10 Jack S. Levy and Joseph R. Gochal, "Democracy and Preventive War: Israel and the 1956 Sinai Campaign," *Security Studies* 11, no. 2 (winter 2001/2): 4.

the implementation of a preventive war.[11] After careful consideration, the Truman administration chose not to engage in preventive war and implemented a containment strategy towards the Soviet Union.

In January 1946, soon after the close of the Second World War, General Leslie Groves, the wartime commander of the Manhattan Project, put forth a memorandum concerning the military implications of the atomic bomb:

> If we were ruthlessly realistic, we would not permit any foreign power with which we are not firmly allied, and in which we do not have absolute confidence, to make or possess atomic weapons. If such as country started to make atomic weapons we would destroy its capability to make them before it had progressed far enough to threaten us.[12]

The dangers of nuclear proliferation arose almost immediately after the United States successfully detonated its first nuclear device. The race throughout the Second World War as to who could make the atom bomb first had a stronger hold on the civilian and military leaders of the combatant nations than debate as to whether or not they should create such a powerful and devastating weapon. Once the bomb was completed, the question of 'what to do now?' was at the forefront of the debate. Within a few short years, the technology of the atom bomb would spread to other states and create a new challenge to domestic and international security.

Although more than fifty years have passed since General Groves made his statement on the need for preemptive action, the same perspectives were echoed by proponents for the Iraq war in 2003. The concept of preventive war was contemplated by U.S. administrations against the Soviet Union, China, Iraq, and possibly other rogue states developing nuclear programs. The question of whether or not to employ such action is contingent on the circumstances associated with the enemy state, and what post-war consequences would affect each side. Engaging in preventive war in a nuclear environment requires extensive planning and preparedness for the potential response

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[11] Marc Trachtenberg, "A Wasting Asset: American Strategy and the Shifting Nuclear Balance, 1949-1954," *International Security* 13, no. 3 (Winter 1988/89): 9-10.

[12] Cited in Trachtenberg, "A Wasting Asset," 5.

from the adversary. How to handle Soviet aggression in the late 1940s and early 1950s became a difficult question to answer.

Strategic theories regarding contending points of view on how to address the Soviet threat varied among government officials and civilian analysts. Fearing the Soviet development of a usable nuclear weapon, nuclear scientists, civilian analysts at the RAND Corporation, U.S. Naval strategists, and some State Department representatives, believed a preventive war against the Soviets was the only solution to the threat.[13] Preventive war proponents encouraged the United States to take a much more active and aggressive policy in preventing the Soviet Union from acquiring nuclear weapons. Political and military officials were well aware that there was no way to tell what would happen if the Soviets developed their own nuclear arsenal. Even Winston Churchill privately urged the American government to present the Soviets with an ultimatum: "if they do not retire from Berlin and abandon Eastern Germany … we will raze their cities …we cannot appease, conciliate, or provoke the Soviet; the only vocabulary they understand is the use of force; and if, therefore, we took this position, they would yield."[14] He went on to say that "we ought not to wait until Russia is ready" and deemed that a preventive first strike would be the "best chance of coming out of [the war] alive."[15] This push from Great Britain created even more tension on how to deal with Soviet aggression and encroachment upon Eastern Europe. The threat of a nuclear-armed Soviet Union generated fear throughout Western Europe, and the United States knew it was the only other power at the time capable of curtailing its actions.

Soviet doctrine dictated that a complacent relationship between the Soviet Union and the United States would deteriorate to hostile antagonism. George Kennan, U.S. diplomat to the USSR during the Harry S. Truman administration, stated there could never be "on Moscow's side any sincere assumption of a community of aims between the Soviet Union and powers which are regarded as capitalist. It must be invariably assumed in Moscow that the aims of the capitalist world are antagonistic to the Soviet regime, and

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13 Trachtenberg, "A Wasting Asset," 8-9.

14 Lewis Douglas personal message to Robert Lovett, U.S. Department of State, *Foreign Relations of the United States*, 17 April 1948, Vol. II, 895.

15 Cited in Trachtenberg, "A Wasting Asset," 9.

therefore to the interests of the peoples it controls."[16] Therefore, any peaceful resolution to differences between the Soviet Union and United States had to take place before the Soviets gained nuclear weapons.

### 2. The Choice of Containment

Given the Soviet strategic influence over Eastern Europe and the growing strength of their military, a nuclear-capable Soviet Union was a global concern. Any attack by the Soviets would specifically threaten Western Europe and deployed American forces in the region. Therefore the encouragement from Great Britain was not enough justification enough to initiate a preventive war with the Soviets. Additionally, it was understood that the behavior of the Kremlin: its secretiveness, deception, and lack of honesty when conducting foreign policy could not be changed and that minor concessions should not be misconstrued as appeasement and willingness to cooperate. The nature of Soviet diplomacy "makes it more sensitive to contrary force, more ready to yield on individual sectors of the diplomatic front when that force is felt to be too strong … [however,] it cannot be easily defeated or discouraged by a single victory on the part of its opponents."[17] The Soviets were far too wary of U.S. intentions to concede any of their power and therefore diplomatic negotiations between the United States and Soviet Union would be useless in alleviating the nuclear threat.

George Kennan argued that given the circumstances and the nature of the enemy, "the main element of any United States policy toward the Soviet Union must be that of a long-term, patient but firm and vigilant containment of Russian expansive tendencies." And that the United States should enter "with reasonable confidence upon a policy of firm containment, designed to confront the Russians with unalterable counter-force at every point where they show signs of encroaching upon the interests of a peaceful and stable world."[18] These statements were part of a telegram he sent from Moscow in 1947, well before the Soviets detonated their first nuclear bomb. This was the first decisive, yet cautious proposal on how to deal with the Soviet threat. With internal and external

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[16] George F. Kennan, "The Sources of Soviet Conflict," *Foreign Affairs* (July 1947): 572.

[17] Ibid., 572.

[18] Ibid., 581.

pressure on the administration to engage in preemptive action, someone with connections to the Soviet political and diplomatic spheres suggested a counter-strategy to destroy the enemy - containment. The influence of Kennan's telegram, which was later published as "The Sources of Soviet Conflict" in the journal *Foreign Affairs* under the pseudonym 'X', reached far across U.S. foreign policy decision-making and eventually found its way into formal U.S. security doctrine.

In 1950 the National Security Council, under the direction of Paul Nitze, Director of the Policy Planning Staff at the Department of State, published the official U.S. strategy on containment: NSC-68. Throughout the document, the basis of many conclusions made about the Soviet Union and its intentions could be traced back to the determinations made by George Kennan three years earlier. The validity of NSC 68 became more widespread than a mere statement declared by the National Security Council. The directive depicted the nature of the international crisis developing at the time, characterized Soviet intentions and capabilities, and itemized the objectives of the United States and the means in which to accomplish them. Within NSC-68, preventive war "is premised on the assumption that the United States could launch and sustain an attack of sufficient impact to gain a decisive advantage for the free world in a long war and perhaps to win an early decision."[19] The goal of any preventive war is to strike quickly and inflict enough damage to prevent a similar retaliatory response. Within the context of the U.S.-Soviet relationship, however, this kind of attack could only be initiated with nuclear weapons.

> The ability of the United States to launch effective offensive operations in now limited to attack with atomic weapons. A powerful blow could be delivered upon the Soviet Union, but it is estimated that these operations alone would not force or induce the Kremlin to capitulate and that the Kremlin would still be able to use the forces under its control to dominate most or all of Eurasia. This would probably mean a long and difficult struggle during which the free institutions of

[19] NSC 68: A Report to the National Security Council by the Executive Secretary on United States Objectives and Programs for National Security, U.S. Department of State, *Foreign Relations of the United States* Vol. I, 14 April 1950, 281.

Western Europe and many freedom-loving people would be destroyed and the regenerative capacity of Western Europe dealt a crippling blow.[20]

Instituting a nuclear attack against the Soviet Union would only strengthen their resolve to retaliate against the United States and its allies, and create havoc on the European continent. This was the central paradox of nuclear power that strategists contemplated. Simply striking a nuclear-armed adversary with a nuclear weapon would only heighten the stakes of the attack because a nuclear response would be the only option to retaliate with. Therefore, if the preventive war strategy was going to have any success it would have had to been initiated prior to the first Soviet nuclear test in August 1949.

It was acknowledged within NSC 68 that not engaging in preventive war was a calculable risk.

> The possession of atomic weapons at each of the opposite poles of power, and the inability (for different reasons) of either side to place any trust in the other, puts a premium on a surprise attack against us. It equally puts a premium on a more violent and ruthless prosecution of its design by cold war, especially if the Kremlin is sufficiently objective to realize the improbability of our prosecuting a preventive war.[21]

The risk of future nuclear war was therefore more a more favorable challenge than attempting to engage in a preventive war. "These are risks we will invite by making ourselves strong, but they are lesser risks than those we seek to avoid."[22] This encompassed not only the nuclear threat from the Soviets, but also the political influence of the communist party around the globe. An attempt to prevent the Soviets from obtaining nuclear weapons required the dismantling of the Stalin's regime. In 1947, George Keenan estimated that the Soviet Union would implode under its own economic and government restrictions within fifteen years.[23] The main consideration was the nuclear threat the Soviets could pose in the near future. Therefore, no one within the Truman administration pushed to wipe out the communist government as part of the

[20] NSC 68, 281

[21] Ibid., 264.

[22] Ibid., 265.

[23] Kennan, "The Sources of Soviet Conflict," 576.

preventive war plan. It would be too costly for the United States to take on the USSR's conventional military and overthrow the communist party at the same time.

### 3. Implications and Lessons Learned

With the notion that a nuclear Soviet Union was years away, geopolitics became the decisive factor in the decision not to engage in preventive war. While the United States was fearful of a nuclear-powered Soviet Union, the political implication of challenging the communist regime proved to be more costly than the benefit of removing their nuclear program by force. The intelligence failure to accurately estimate the Soviet nuclear program contributed to the implementation of the containment strategy. Once the Soviets detonated their first nuclear devise, preventive war was no longer an option. If U.S. officials had precise information when the Soviets would obtain their nuclear capabilities, there may have been a greater push for preventive action. The containment strategy was therefore the appropriate strategy to follow given the Soviet nuclear capabilities and the challenge of militarily engaging the communist regime.

## C. CASE STUDY 2: IRAQ

### 1. Background

Operation Iraqi Freedom was a significant event that had global repercussions. The international community watched as the only global superpower used its military to remove the Saddam Hussein regime and an allegedly imminent threat of nuclear weapons development. The United States perceived that Iraq's WMD programs were active and that the threat of a nuclear-armed Iraq constituted a threat that constituted the need for a preventive war. The United States launched the operation with the confidence that it could take on Iraq's military and drive to Baghdad with minimal resistance. Operation Iraqi Freedom marked the first instance where the United States engaged in a preventive war against a state's nuclear program and the regime that supported it. Before and after combat operations concluded in Iraq, the legality, ethics, and necessity of the action was debated in both the United States as well as internationally. The debate centered on the issues of whether preemptive action against Iraq was legal, and whether the potential

positive results of the war was worth the growing negative perception of the United States by the international community.

Many competing theories exist as to the true justification for Operation Iraqi Freedom. Some analysts believe that the 11 September 2001 terrorist attacks compelled the United States to target all rogue states equally as the members of Al Qaeda. Another theory is that this was merely an extension of the unfinished business left from Operation Desert Storm in 1991. The debate on the necessity of war amongst the United States, its allies, and the United Nations (UN) as a whole, reached a stalemate by March 2003. According to the Bush administration, the question of whether or not Iraq had resumed its WMD programs, as intelligence estimates prior to the war had suggested, could only be answered by offensive action. Inspections conducted by UN personnel following the first Gulf War were hindered by the uncooperative Hussein regime, eventually resulting in the withdrawal of UN inspectors in 1998. International pressure backed by the threat of force, prompted the Hussein regime to accept UN inspectors again in early 2003, bit the new inspection teams met with the same difficulties as their predecessors. Support for UN imposed economic sanctions against Iraq weakened due to their ineffectiveness in curbing weapons development and the continued hardships sanctions imposed upon the people of Iraq.

### 2. The Choice of Preventive War

"A legitimate preemptive war requires that states identify that potential aggressors have both the capability and the intention of doing great harm to you in the immediate future."[24] Prior to the initiation of the invasion of Iraq by U.S. ground forces, the stated goal of the attack was to dismantle Iraq's weapons of mass destruction programs and disrupt any ties or affiliations that the regime had with terrorist organizations. In order to accomplish these tasks, removing Saddam Hussein from power was a necessity, and frankly, an added bonus for the world community and the oppressed people of Iraq. Even the name of the mission, "Operation Iraqi Freedom," illustrated a theme of liberation rather than an aggressive attack aimed at ridding the country of deadly weapons.

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[24] Neta C. Crawford, "The Slippery Slope to Preventive War," *Ethics & International Affairs* Vol. 13, Issue 1, (New York, 2003): 33.

Early in the military campaign against the Hussein regime, General Tommy Franks, Combatant Commander of U.S Central Command, announced the military objectives of Operation Iraqi Freedom.

> First, end the regime of Saddam Hussein. Second, to identify, isolate and eliminate Iraq's weapons of mass destruction. Third, to search for, to capture, and to drive out terrorists from that country. Fourth, to collect such intelligence we can relate to terrorist networks. Fifth, to collect such intelligence as we can relate to the global network of illicit weapons of mass destruction. Sixth, to end sanctions and to immediately deliver humanitarian support to the displaced and to many needy Iraqi citizens. Seventh, to secure Iraq's oil fields and resources, which belong to the Iraqi people. And last, to help the Iraqi people create conditions for a transition to a representative self-government.[25]

The mission objectives of the military at the beginning of the war supported Bush administration claims of the immediate necessity of preventive war. The success of the operation depended on the first objective stated by General Franks - the end of the Saddam Hussein regime. While the regime is currently disbanded and inactive, the fact that Saddam Hussein himself has not been captured or killed prohibits the U.S. from proclaiming a final end to the regime and leads some to speculate that he could return with some sort of retaliation against U.S. forces or the people he oppressed for thirty years. Of even greater concern is the fact that little evidence of WMD or their associated programs has been publicly released. Prior to the start of the operation, opponents to the war were concerned that substantial WMD evidence would be found, thereby prompting many to believe that they did not act in the best interest of U.S. national security.

In an attempt to generate international support for preventive action, the Bush administration presented its case for war in a way indicating that Iraq's WMD programs were advancing at such a rate, that preventive action was required for global safety. Secretary of State Colin Powell cited Iraq's WMD program and its ties to terrorism as the primary rational for preventive war during his statement to the United Nations in February 2003.

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[25] General Tommy R. Franks, Briefing on Military Operations in Iraq, 22 March 2003, http://www.centcom.mil/CENTCOMNews/Transcripts/20030322.htm Accessed 2 August 2003.

> We know that Saddam Hussein is determined to keep his weapons of mass destruction, is determined to make more. Given Saddam Hussein's history of aggression, given what we know of his grandiose plans, given what we know of his terrorist associations, and given his determination to exact revenge on those who oppose him, should we take the risk that he will not someday use these weapons at a time and a place and in a manner of his choosing, at a time when the world is in a much weaker position to respond? The United States will not and cannot run that risk for the American people. Leaving Saddam Hussein in possession of weapons of mass destruction for a few more months or years is not an option, not in a post-September 11th world. [26]

In the months following the end of major combat operations in Iraq and without the proof of Iraq's weapons of mass destruction programs, various cabinet members of the Bush administration sought to justify the urgency for attack on other grounds than WMD, without reducing its necessity. In a statement made to Congress on 11 July 2003, Secretary of Defense Rumsfeld stated that, "the coalition did not act in Iraq because we had discovered dramatic new evidence of Iraq's pursuit of weapons of mass murder. We acted because we saw the existing evidence in a new light, through the prism of our experience on September 11th."[27] If Secretary Rumsfeld made this statement prior to the war, additional domestic and international support for the war could have been generated. Government officials gave the impression to the American public and foreign allies that new and incriminating evidence about Iraq's WMD programs existed. They often used phrases such as 'absolute certainty,' 'leaves no doubt' and 'absolutely' within their speeches. Justifying the war by linking it to the 11 September terrorist attacks directs attention away from the perceived intelligence failures that are still plaguing the federal government.

National Security Advisor, Condoleezza Rice, also justified the use of force without the "new evidence" theory. She stated that:

> judgments by the intelligence community indicated that [Saddam Hussein] was reconstituting his programs, that he had an active procurement network, that he was gathering together nuclear scientists, that he had

[26] Colin Powell, "Iraq's Failure to Disarm," Remarks to the United Nations Security Council, 5 February 2003. http://www.state.gov/secretary/rm/2003/17300.htm. Accessed 10 September 2003.

[27] Donald Rumsfeld, from the hearing on "The lessons learned during operations in Afghanistan and Iraq," Senate Armed Services Committee, Federal News Service, 9 July 2003.

> several designs for a nuclear weapon, and that left unchecked he might be able to have a nuclear weapon by the end of the decade. …five of the six intelligence agencies believed that he had an active program of reconstitution of his nuclear weapons program. …at the end of the Gulf War, [Iraq had] been proven to be much closer to a nuclear weapon than the International Atomic Energy Agency had thought. He had been seeking nuclear weapons for a long time. This didn't happen in a vacuum.[28]

This statement can be interpreted as a push for war because all of the other methods (Operation Desert Storm, seventeen UN Security Resolutions, economic sanctions, UN weapons inspections, and the threat of invasion) to contain Saddam Hussein failed, therefore, initiating a preventive war was the only option left to remove the impending threat.

### *a. The Legality and Justification of War*

One view of strategic theory states when a "rising state crosses a critical threshold of capabilities, such as the development of nuclear capability," there exists a legitimate case for preventive war.[29] The Bush administration insisted on immediate action to prevent Saddam Hussein from developing a usable nuclear weapon. Many in the global community, however, resisted the pressure to follow the preemptive lead of the United States. As examined in the Soviet Union case, most of the world already feared a nuclear powered Soviet Union and encouraged U.S. intervention. In the case of Iraq, however, the United States was clearly increasing its readiness for war even before U.S. Secretary of State Colin Powell attempted to recruit various allies in the preventive war effort. The UN remained cautious regarding the true intentions of the United States and encouraged further weapons inspections to determine Iraq's true nuclear potential. By not obtaining a specific UN Security Council resolution authorizing a preventive war against Iraq, and with little help from many long-standing allies, the legality of the preventive war remained uncertain.

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[28] Condoleezza Rice, from "Newsmaker: Condoleezza Rice," PBS Online News Hour, 30 July 2003. http://www.pbs.org/newshour/bb/white_house/july-dec03/rice_7-30.html Accessed 2 August 2003.

[29] Jack S. Levy and Joseph R. Gochal, "Democracy and Preventive War: Israel and the 1956 Sinai Campaign," *Security Studies* 11, no. 2 (winter 2001/2): 8.

The legality of using military force in anticipatory self-defense involves the interpretation of international law and the influence of treaties and agreements on international law. For centuries, international law recognized that nations did not have to suffer an attack before they could lawfully take action against forces threatening imminent attack. Since the development of the United Nations and its efforts to bring global cooperation between its members, limitations have been placed on individual member state action. According to Article 51 of the UN Charter, states shall maintain the "inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."[30] The charter also stipulates that the Security Council maintains authority over states that act without authorization. Thus, a member of the United Nations can engage in self-defensive military action only after an attack has happened, and then only until the Security Council decides how to respond appropriately. Under these guidelines, unilateral preventive or preemptive force with or without an imminent threat is unlawful, and an attack on Iraq would be considered illegal by international law standards unless pre-approved by the Security Council.

"In today's world of nuclear weapons, intercontinental ballistic missiles, and terrorism, a less precise definition of a potential threat justifying military action under the rule permitting anticipatory self-defense is appropriate."[31] The changing nature of aggression and threat response is viewed differently since the end of the Cold War. Both WMD and terrorism pose threats unanticipated by traditional international law. The main purpose of the UN Charter was to address conventional threats posed by rational state actors. Reliance on the old and dated methods of deterrence and containment no longer work to stop the proliferation of weapons of mass destruction. If the Charter is deemed out-dated concerning preventive war and preemption against WMD threats, then the Bush doctrine of preventive war is in fact lawful.

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[30] The Charter of the United Nations, Chapter 7, Article 51, http://www.un.org/aboutun/charter/ Accessed on 2 August 2003.

[31] Thomas Graham Jr., "National Self-defense, International law, and Weapons of Mass Destruction," *Chicago Journal of International Law*, Vol. 4, Issue 1 (Chicago: Spring 2003): 1

Since the creation of the UN, many historical cases of the use of force in violation of the UN Charter's basic paradigm exist. Although not an all-inclusive list, the following actions are examples of military operations not conducted in self-defense that failed to receive UN Security Council authorization, but challenged political and territorial integrity and independence.

- North Korean invasion of South Korea (1950)
- U.S. actions in Guatemala (1954)
- Israeli, French, and British invasion of Egypt (1956)
- Soviet invasion of Hungary (1956)
- U.S. sponsored Bay of Pigs invasion (1961)
- Warsaw Pact invasion of Czechoslovakia (1968)
- North Vietnamese actions against South Vietnam (1960-1975)
- Soviet invasion of Afghanistan (1979)
- U.S. invasion of Grenada (1983)
- U.S. invasion of Panama (1989)
- Iraqi attack on Kuwait (1990)
- NATO/U.S. actions against Yugoslavia in the Kosovo situation (1999)[32]

Given that each of these actions were in violation of the UN Charter, it is difficult to determine the influence and control the Charter still has over state action and use of force. Therefore, if the UN Charter cannot control individual state action, it cannot truly reflect international laws and norms and the Bush strategy of preventive war and preemption is therefore legal.[33]

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[32] Anthony Clark Arend, "International Law and the Preemptive Use of Military Force," *The Washington Quarterly* (Spring 2003): 100.

[33] Arend, "International Law," 89.

### 3. Implications and Lessons Learned

The full implications of the preventive war against Iraq are still unknown. The exact amount of damage done to U.S. credibility over the failure to immediately identify the location of WMD materials in Iraq remains undetermined. While the UN tries to find a niche in the effort to rebuild Iraq, the United States maintains control over the ongoing military operations. There is no question that Iraq is better off without the dictatorial regime of Saddam Hussein, but U.S. troops and officials within Iraq have yet to release conclusive evidence to justify the original claims for war. Sufficient proof of Iraq's WMD program may never be available to satisfy the administration's critics. The United States and its coalition partners fought a preventive war against Iraq, but it has yet to be proven, or at least released to the American public and international community what specifically the United States tried to prevent; an impending WMD attack from Saddam Hussein, proliferation of WMD to a terrorist group, or the technology development required for future nuclear weapons.

In theory, "to be an effective treatment for proliferation, preventive war must not only remove the direct threat, but also dissuade would-be proliferators."[34] With regards to Iraq, the United States has removed the direct threat - Saddam Hussein - but the effect the preventive war has had on would-be proliferators is unknown. There is speculation that Operation Iraqi Freedom sought to challenge the WMD programs in North Korea and Iran. It is possible in fact, that the preemption doctrine adopted by the United States may actually increase international instability "because it is coupled with the U.S. goal of maintaining global preeminence and a military force 'beyond challenge'."[35] Both North Korea, and Iran, however, continue to actively pursue their respective nuclear programs. Although the U.S. military clearly has the capability to defeat North Korea or Iran, such an operation would be more difficult than Operation Iraqi Freedom. Instituting a preventive war against either of these states would be subject to negative criticisms from the international community and the task of removing Kim Jong Il in North Korea or the

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[34] Joseph Cirincione, "Can Preventive War Cure Proliferation?" Proliferation Brief, Vol 6, No. 12 http://www.foreignpolicy.com/story/story.php?storyID=13766 Accessed on 9 August 2003.

[35] Neta C. Crawford, "The Slippery Slope to Preventive War," *Ethics & International Affairs* Vol. 13, Issue 1 (New York, 2003): 42.

fundamentalist mullahs in Iran would have more political ramifications globally than the elimination of the Saddam Hussein regime in Iraq.

## D. CONCLUSIONS ON PREVENTIVE WAR

The case studies of the Soviet Union and Iraq described in this chapter indicate that preventive war is not always a prescription for countering the proliferation of WMD. Geopolitical circumstances and the immediacy of the threat dictate what course of action should be chosen. Preventive war should only be ordered by the United States when precise intelligence indicates an adversary's program is a direct threat against U.S. national security. What was prescribed for one country (Iraq) may not work against other uncooperative states, such as Iran and North Korea.

The decision not to engage in a preventive war can lead to an adversary acquiring deadly WMD capabilities. Even though the United States never followed through with its preventive war plans against the Soviet Union, the following thirty years of containment gave rise to a nuclear arms race that strained relations throughout the world. Although the offensive phase of the Iraq war was successful in removing the Saddam Hussein regime from power, securing a new Iraq and instituting a new government remain the challenges ahead. The role of preventive war within counterproliferation strategy is limited. Strained relations between the United States, its allies and the United Nations during the buildup to Operation Iraqi Freedom proved that preventive war is not internationally regarded as a legitimate counterproliferation strategy. If the United States, however, succeeds in building a stable Iraq, and the benefits of a non-nuclear, free Iraqi society outweigh the costs the United States paid in waging the war, then the preventive war strategy will prove successful.

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# III. PREVENTIVE STRIKES

## A. INTRODUCTION

There is a distinct difference between preemptive and preventive strikes when used as a method of counterproliferation. A preemptive strike is conducted when another state threatens an imminent attack with weapons of mass destruction, and the only way to protect national security is to strike first. Preventive strikes, on the other hand, are used to dismantle or disrupt a state's WMD program before a usable weapon is completed. Popular media tends to interchange these two terms, but each are independent tactics within the broader strategy of counterproliferation. What distinguishes preemptive and preventive strikes from preventive war is that strikes are not intended to dismantle the government or challenge the power of the leadership, only to destroy facilities that produce or deploy WMD. This chapter analyzes historical cases of preventive strikes and examines the usefulness of preventive strikes in countering nuclear proliferation.

The examined case studies are: the allied attacks on the German held heavy water plant in Norway during the Second World War, the Israeli strike on the Iraqi nuclear plant at Osirak in 1981, and the contemplation of the Johnson administration to conduct preventive strikes against China's Lop Nur nuclear plant in 1963. While there are other examples of preventive strikes involving weapons of mass destruction during the twentieth century, the proposed case studies offer different solutions to nuclear counterproliferation and are valuable for comparison. The attack on the Norsk-Hydro plant was the first preventive strike against another state's nuclear program, the U.S. decision not to attack China's developing nuclear program was a calculated risk and a missed opportunity to disrupt China's nuclear efforts, and Israel's attack on Osirak postponed Iraq's ability to obtain the materials needed to develop a usable weapon for at least 20 years.

Similar to engaging in a preventive war, preventive strikes require a state to examine the WMD threat from the adversary and address the viability of a planned operation and evaluate its potential for success. According to author Barry Schneider, the United States should address each of the questions regarding the immediate intentions of

the adversary, the potential for a successful attack, and the political ramifications of a surprise attack.[36] All of these issues rely heavily on accurate intelligence to determine if a preventive strike would effectively achieve the goal of destroying or disrupting an adversary's WMD programs.

## B. CASE STUDY 1: NORSK HEAVY WATER PLANT

### 1. Background

Nazi Germany's attempts to develop a usable nuclear weapon were a major concern to the Allied powers during the Second World War. American and British nuclear physicists feared that they had fallen behind their German counterparts and that Germany would develop an atomic bomb first. This perception was a result of multiple considerations.

- The high caliber of German theoretical and experimental physicists
- German control of Europe's only uranium mine (in Czechoslovakia)
- German control of the world's largest supply of imported uranium in Belgium
- German possession of Europe's only cyclotron in France
- German control of the world's only commercial source of heavy water in Norway.[37]

By 1942 the United States and Germany had equivalent levels of technology in the race to develop a nuclear bomb. It was determined that same year by Arthur H. Compton, Director of Atomic Research at the University of Chicago, that "if the Germans know what we know – we dare not discount their knowledge – they should be dropping fission bombs on us in 1943, a year before [U.S.] bombs are planned to be ready."[38] Compton later advised General Leslie Groves, Director of the Manhattan Project, that the United States must obtain complete domination of Germany before June

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[36] Barry R. Schneider, *Future War and Counterproliferation* (Westport, Conn., Praeger, 1999), 157-161.

[37] Institute for National Strategic Studies, McNair Paper Number 41, Radical Responses to Radical Regimes: Evaluating Preemptive Counter-Proliferation, May 1995, www.fas.org/spp/starwars/program/docs/41naz.html Accessed 21 April 2003.

[38] Dan Kurzman, *Blood and Water: Sabotaging Hitler's Bomb* (NewYork: Henry Hold and Company, 1997) 8.

1943, destroy German fission plants by sabotage, air or commando raids, and speed the U.S. nuclear schedule to beat the Germans.[39] The military and scientific communities both realized the danger if the Nazis developed an atomic weapon. Unlike the other case studies, the fact that the Allies were already at war with Nazi Germany eliminated the political debate over the legality of the preventive strikes.

German military forces seized the Norsk-Hydro plant in April 1940, and heavy-water production rates rose significantly within months. German scientists concluded that heavy water offered the most practical solution to producing an atomic weapon.

> Heavy water looks and tastes like ordinary water, but it is chemically different. Composed of the hydrogen isotope deuterium and oxygen, it has twice as many hydrogen atoms as ordinary water and is 10 percent heavier. The extra weight works as a slow-motion mechanism, moderating the speed of the neutrons set free in a nuclear reactor and permitting these elementary atomic particles to split uranium atoms in a chain reaction and produce plutonium, a fissionable element that could be used in a bomb.[40]

Constant aerial and ground attacks on German nuclear instillations between 1941 and1943 did little to hinder German nuclear research. A key target in the Allied plan was the German-controlled heavy water plant, Norsk-Hydro, at Venmork, Norway. The Allies deemed destroying the plant's operational capabilities was the best option available for crippling the German atomic bomb research effort.

### 2. The Decision to Attack

After negotiations took place between the United States and Great Britain, the Allies decided that the United States would maintain the responsibility of developing the nuclear bomb, while the British maintained the responsibility of destroying the German nuclear program.[41] Analysis determined that attacking German controlled uranium mines in Czechoslovakia could not reduce production sufficiently to halt the program, moreover, once uranium was mined it was impossible to trace.[42] The Norsk-Hydro plant,

[39] Ibid., 17.

[40] Ibid., 5-6.

[41] Ibid., 49.

[42] Ibid., 59.

however, was the sole location of Germany's heavy-water research and equipment and therefore a prime target. Because of this analysis, British military leaders recommended the immediate destruction of the Norsk-Hydro plant. British led forces conducted four separate operations before finally succeeding in destroying the heavy water and related production equipment.

The first raid tasked British paratroopers to sabotage the plant. The gliders they used to infiltrate the enemy-infested area, however, crashed into a mountain as a result of inclement weather in October 1942. The second attempt was made in February 1943, when British trained Norwegian saboteurs were able to permeate the buildings within Norsk-Hydro, set explosives, and disable the facility. The success was short lived however, as German production resumed at the plant a few months later. A combined effort by the Royal Air Force and the American Eighth Air Force was the third attempt. They dropped over 800 1,000-pound and 500-pound bombs combined, but post-strike analysis discovered that only two bombs hit the electrolysis plant and the heavy-water reactor remained untouched.[43] While the aerial bomb attack was an operational failure, it forced the Germans to decide the future of their heavy water program. They determined that the plant was too vulnerable for the research to remain in Norway and ordered a transfer. General Nikolaus von Falkenhorst, one of the senior officers favored by Hitler, announced the construction of a heavy-water plant in Germany and ordered that all the heavy water and plant facilities at Norsk-Hydro be shipped across the Baltic Sea to Germany by ferry.

British intelligence learned the date, time, and route of the heavy water delivery to Germany, and determined that sinking the ferry in the deep waters of Lake Tinn was the ideal method of destruction. The transfer was scheduled for Sunday, 20 February, which bode well for an attack because there would be few passengers aboard and therefore fewer casualties would be inflicted. Three Norwegians carried out the operation. The men used an alarm clock, electric detonators, and "fashioned nineteen pounds of plastic explosives into a twelve-foot-long, sausage shaped bomb. It was large enough to ensure

[43] Ibid., 209.

that the vessel would sink quickly."[44] Several hours later the bomb exploded, destroying the heavy-water cargo.

### 3. Implications and Lessons Learned

The action taken against Germany's heavy-water research was the first successful preventive nuclear operation in history.[45] Although the successful completion of the mission required four different attacks, the elimination of Germany's heavy water production and research capability damaged its overall nuclear program. There was little political debate over the methods used in the attacks, although the Norwegian government objected to the Allied bombing raid because they were not consulted prior to the attack and were angry about collateral damage in the area surrounding the plant. "If the aim of this bombing was to stop the production … of heavy water, better results could have been achieved by specialized methods of attack than by overall bombing."[46] The Allies learned from mistakes and eventually implemented a plan to complete the mission with minimal collateral damage.

Another factor slowed the progress of the German nuclear program. After a German Army review of the Reich's weapons programs, nuclear research lost its relative importance when judged against other technological military endeavors. In December 1941, the German military leadership needed to determine which of the following programs would most benefit the war effort: jet aircraft, ballistic missiles, or nuclear weapons. The scientists determined that a nuclear bomb was another two to three years away (Allied scientists at the time would have made the same estimate), and would do little to serve the immediate German war effort. Leadership interest in the nuclear program diminished, while the ballistic missile program rose to top priority in German military research.[47]

The conclusion of the Second World War proved that Nazi Germany was further from obtaining the technological capabilities needed to build a nuclear weapon than

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[44] Ibid., 217- 219.

[45] Schneider, *Future War and Counterproliferation* 162.

[46] Kurzman, *Blood and Water*, 210.

[47] Nigel Hawks, "Why Hitler Stalled on the Bomb," *World Magazine* (March 1992): 29.

previously thought. As a result, the attack on the heavy water program proved unnecessary, but during the nuclear race between the Allies and Nazis, any attempt to prevent the adversary from obtaining an atomic weapon was a justifiable action in the wartime environment.

## C. CASE STUDY 2: ISRAEL'S ATTACK ON OSIRAK

### 1. Background

Contrary to what is typically written about the Israeli air strike on the Osirak reactor in Iraq the mission was not preemptive, but preventive. Iraq was far from reaching nuclear weapons capability at the time of attack, but obtained the appropriate machinery and technological information to further its efforts towards a usable weapon. The controversy surrounding the attack centered on the fact it was the first occasion where a state engaged in a preemptive action against another state's nuclear program without any provocation. Israeli Prime Minister Menachem Begin issued the order to attack on the basis that he feared that his party would lose the next election, and he did not believe the opposition had the fortitude to initiate a preventive action prior to the production of the first Iraqi nuclear bomb. Prime Minister Begin did not want to lose what could be the only chance he would have to save the Jewish state from nuclear attack.

Iraq's nuclear program began in the 1960s. Iraq ratified the Non-Proliferation Treaty (NPT) on 29 October 1969 and pledged not to manufacture nuclear weapons and agreed to place all its nuclear materials and facilities under IAEA safeguards.[48] Saddam Hussein, while Vice Chairman of the Revolutionary Command Council, initiated the Iraqi nuclear weapons program in the 1970s.[49] Iraq purchased a reactor from France in 1975 with the intent to use it for civil power purposes, but the fact that they would obtain highly enriched uranium in the process generated international concern. As part of Iraq's agreement with France during the reactor sale, the equipment was subject to international inspections under International Atomic Energy Agency (IAEA) guidelines, and given

[48] A Brief History of Iraq's Nuclear Weapon Program - Part I, August 22, 2002, Carnegie Endowment for International Peace, http://www.ceip.org/files/nonprolif/templates/article.asp?NewsID=3483. Accessed on 23 August 2003

[49] Rebecca Grant, "Osirak and Beyond," *Air Force Magazine* Vol. 85, No. 08 (August 2002): 1, http://www.afa.org/magazine/Aug2002/0802osirak.html, accessed 30 August 2003.

Iraq's stature as a signatory of the NPT, no one expected Iraq would attempt covert nuclear weapons research. After an attack by Iran in the early days of the Iran-Iraq war in September 1980, however, the official Iraqi news agency issued the following statement: "The Iranian people should not fear the Iraqi nuclear reactor, which is not intended to be used against Iran, but against the Zionist entity."[50] This single statement indicated not only that Iraq was pursuing a nuclear bomb, but also that Israel was the primary the target of the bomb.

### 2. The Decision to Attack

Israel noted the threat from Iraq, and on 7 June 1981 took preventive action against the Iraqi nuclear program and conducted a surprise attack on the Osirak reactor. Before the decision to strike was made, Israeli military and civilian leaders debated over the timing of the attack, and a dispute over military action versus diplomatic efforts ensued between the two major Israeli parties. The Labor party favored diplomatic efforts to head off Iraqi nuclear capability. It adopted a 'wait and see' policy that relied upon diplomacy to try to forestall the Iraq effort. In 1981, Labor leaders believed an understanding with then French President Francois Mitterand, had been agreed upon to reverse the French policy of helping Iraq in nuclear matters. Prime Minister Menachem Begin, leader of the Likud Party, disagreed with this approach. He did not trust leaving this matter to the French, to fate, and certainly not to the reasonableness of Saddam Hussein. He thought military action was the only remedy.

> For Begin, the prospect of an Iraqi nuclear capability, indeed any Arab nuclear capability, was totally and irrevocably intolerable. It was a devastating weapon that he had no doubt would be used to try and destroy the Jewish nation, a holocaust in the flick of an eye. Begin approached the issue not only in practical terms, but from a passionately emotional and ideological stance.[51]

Once Begin issued the strike order, timing became the next item of concern. According to Major General David Ivry, then Chief of the Israeli Air Force (IAF), "we

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[50] Ibid., 1.

[51] Cited in Institute for National Strategic Studies, McNair Paper Number 41, Radical Responses to Radical Regimes: Evaluating Preemptive Counter-Proliferation, May 1995. www.fas.org/spp/starwars/program/docs/41naz.html accessed 21 April 2003.

have to attack before uranium was going to get to the facility, because otherwise, after attacking with uranium inside, it can cause radiation damage to the environment."[52] Israeli officials were concerned over the potential of nuclear fallout from the destruction of the reactor blowing into populated areas of Iraq and the danger to the Iraqi people. Although, a consensus was reached, the Israeli intelligence community recommended canceling the operation due to the potential of disrupting the Israeli peace negotiations with Egypt hours before the strike was to commence.[53] Begin ignored this recommendation and ordered that the attack proceed. On 7 July 1981 at 5:35pm, eight F-16s dropped sixteen tons of explosives on the Osirak reactor.[54]

### 3. Implications and Lessons Learned

The destruction of the Osirak reactor greatly affected Iraq's nuclear program. Although the attack took Iraq off the fast track to nuclear weapon, Iraq responded with a furious response of doubling its efforts to obtaining the bomb. It assigned 20,000 people to work on the nuclear program and pressed on with the development of gas centrifuges to produce bomb-grade material. It spent over $10 billion on prohibited components and its denial and deception methods to conceal related facilities and technologies.[55]

While the United States publicly denounced the Israeli assault, one of the major controversies associated with the attack was the involvement of U.S. manufactured equipment as a delivery system for the operation. The F-16s were sold to Israel to serve defensive purposes only. Their use in an offensive, unprovoked attack upset the Iraqis and the entire Arab world, and was a violation of the United States Arms Export Control Act.[56] The U.S. Congress reviewed a report citing the violation, but little was done to rectify it. The United States, although embarrassed by Israel's violation, maintained their

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[52] Cited in Grant, "Osirak and Beyond," 2

[53] Grant, "Osirak and Beyond," 2.

[54] Ghassan Bishara, "The Political Repercussions of the Israeli Raid on the Iraqi Nuclear Reactor," *Journal of Palestine Studies* 11, no 3, (Spring, 1982): 59.

[55] Grant, "Osirak and Beyond," 2.

[56] *Purposes for which Military Sales by the United States are Authorized*, Title 22, Chapter 1, Section 4, The Arms Export Control Act. United States Code, §2778. http://www.fas.org/asmp/resources/govern/aeca01.pdf. Accessed on 5 September 2003.

support for Israel regardless of the protests made by Iraq and other Arab states.[57] It was later revealed that the United States provided targeting intelligence prior to the attack and bomb damage assessment assistance to the Israelis immediately following the strike. Director of Central Intelligence, William J. Casey, initiated a secret agreement with the Israelis to obtain their promise to not challenge the U.S. sale of the Airborne Warning Control Systems (AWACS) to Saudi Arabia in exchange for target information on Iraq's Osirak nuclear reactor outside of Baghdad.[58]

> An American KH-11 Big Bird photo reconnaissance satellite was diverted from its customary orbit over the Soviet Union and China; and within six hours, Israeli intelligence was getting KH-11 photos direct by satellite revealing the destruction wrought on the Iraqi plant.[59]

Bobby Inman, Deputy Director of Intelligence at the CIA, discovered that the intelligence information far exceeded the requirements of the raid. Israel drew material from U.S. intelligence sources on Libya and Pakistan, and in response the U.S. intelligence community imposed a 250-mile limit on satellite information shared with Israel.[60]

The destruction of the Osirak reactor proved detrimental to Iraq's nuclear program, and the Israelis maintained that it deferred the technology and material acquisition for a usable weapon by a decade. Former United Nations chief nuclear weapons inspector David A. Kay estimated that if Iraq had been left undisturbed, it could have acquired a nuclear bomb by 1992.[61] The Iraqi rationale behind pursing the bomb was split between Iraq's hatred for Israel and the U.S. support to Israel. Thus, the question of the legitimacy of the preventive strike against Iraq comes into question. The Israelis determined the Iraqi nuclear program a risk to Israel's national security and acted accordingly to protect its sovereignty. The implications that arose by the subsequent U.S. involvement in the situation led to greater tensions in U.S. / Iraqi relations. It is quite

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[57] Bishara, "The Political Repercussions of the Israeli Raid" 59-60.

[58] Joseph E. Perisco, *Casey: The Lives and Secrets of William J. Casey – From the OSS to the CIA* (New York: The Penguin Group, 1990), 223.

[59] Ibid., 253-254.

[60] Alexander Cockburn, "A Bit More About Inman and Safire," *Los Angeles Times*, 20 January 1994, B11.

[61] Grant, "Osirak and Beyond," 2.

possible that if the Iraqis had gained nuclear weapons, they may have acquired additional provinces from Iran, Kuwait, and directly assaulted Israel. So, in this situation preventive action did work, but the detrimental effects to relations with Iraq and the Arab world caused greater problems later for the United States.

## D. CASE STUDY 3: CHINA'S NUCLEAR PROGRAM AND THE U.S. RESPONSE

### 1. Background

China detonated its first nuclear devise on 20 October 1964. The fact that China conducted the test earlier than the United States expected, left the Johnson administration wondering how to address the new Chinese Communist nuclear threat. Months earlier, however, a wave of interest in preemptive strikes against the Chinese nuclear program circulated around the White House and Central Intelligence Agency (CIA). Declassified documents released in the mid-1990s, revealed that a U.S. preemptive attack on China's nuclear plants was considered as a possible operation to disrupt the Chinese program.

China's nuclear program first began in January 1955. As a result of the lessons learned from the Korean War, Indochina, and the Taiwan Strait, China decided to modernize its military and weapons to protect its sovereignty and power. Mao Zedong's rationale for a nuclear program centered on destroying the nuclear domination of China's adversaries. China sought to gain status as a world power, while reducing U.S. power and influence in Asia and the Western Pacific. China also desired to seize the leadership of the Communist movement from the Soviets.[62] With this mindset, the Chinese set out to build their own nuclear program to compete against the perceived antagonism from the United States and its other enemies. By 1958, Mao Zedong thoroughly believed that without atom and hydrogen bombs, "others don't think what we say carries weight."[63]

The U.S. intelligence community had little information regarding the Chinese nuclear program. There was a great deal of secrecy surrounding the program and no

[62] Office of International Security Affairs at the Department of Defense, "China As a Nuclear Power (Some Thoughts Prior to the Chinese Test)," 7 October 1964, page 3, in National Security Archive Electronic Briefing Book No. 1: *The United States, China, and the Bomb*. http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB1/nhch5_1.htm

[63] Cited in John Lewis and Xue Litai, *China Builds the Bomb* (Stanford Calif.: Stanford University Press, 1988), 36.

public announcements were made when the research institutes were opened. Even the facilities associated with research and production were referred to by code names or numbered titles.[64] But there were few information collection capabilities available for U.S. intelligence agencies. Reconnaissance satellites were not launched until August 1960, but the first valuable photographs of the Chinese nuclear program were not taken until 1961 – 1963, after the Chinese program was well underway.[65]

The U.S. intelligence community falsely analyzed that China used plutonium to manufacture their first bomb. In actuality, however, the Chinese used uranium, which resulted in severe miscalculations by U.S. analyst in estimating when a usable devise would be ready for testing. This belief continued throughout the early 1960s, and the analysts maintained that a detonation of a uranium device would not occur until well after the end of 1964. The conclusion was that China would not have sufficient fissionable material to conduct a test and that the Lanzhou plant, responsible to for the production of uranium 235 was behind schedule. Meanwhile, intelligence estimated that the Baotou plant that handled the plutonium production for China would not be capable of manufacturing enough material for a bomb until 1965.[66] These perceptions tainted the interpretation of the images received by the Corona satellites that revealed the Lop Nor nuclear test stand and facility neared completion. On 26 August 1964, the CIA issued a top-secret statement regarding the intelligence estimates of a Chinese nuclear test.

> On the basis of new overhead photography, we are now convinced that the previously suspect facility at Lop Nor in Western China is a nuclear test site, which could be ready for use in about two months. On the other hand the weight of available evidence indicates that the Chinese will not have sufficient fissionable material for a test of a nuclear device in the next few months.[67]

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[64] William Burr and Jeffery T. Richelson, "A Chinese Puzzle," *The Bulletin of the Atomic Scientists*, (July/August 1997): 42.

[65] Ibid., 44.

[66] Ibid., 46.

[67] Central Intelligence Agency, SNIE 13-4-64: The Chances of an Imminent Communist Chinese Nuclear Explosion. 26 August 1964, p. 239, in National Security Archive Electronic Briefing Book No. 1: *The United States, China, and the Bomb*. http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB1/nhch4_1.htm

Further inaccurate estimates regarding Chinese nuclear technology resulted when analysts used the timelines maintained by the United States and Soviet Union for their respective nuclear programs.

> The Soviet Union did considerably better, even though their technical base was widely believed to be inadequate to support such rapid progress. The Chinese have a far weaker industrial base; but on the other hand many elements which were very difficult and expensive development for us (the United States) are now common knowledge or available on the open market. Also they have shown greater willingness to sacrifice for high priority objectives.[68]

Due to the failure of intelligence in collecting and analyzing information regarding the developing the Chinese nuclear program, President Johnson and his advisors were forced to make a decision without complete knowledge of the situation.

### 2. The Decision Not to Attack

The Johnson administration knew the implications associated with a nuclear-capable China and that consideration of action was necessary. While the idea of a preventive attack circulated around the White House and the CIA, intelligence estimated the greater implications associated with a non-provoked attack on China, and determined them too costly.

As the Chinese nuclear program got closer to fielding a testable device, in April 1946, Special Assistant to the President, W.W. Rostow, issued a memorandum that addressed possible U.S. actions regarding the Chinese nuclear threat. He stated that preemptive action "would be undesirable except as part of a military action against the response to major ChiCom [Chinese Communist] aggression. Prospects for covert action should receive continued examination."[69] The memo discussed what military posture the United States should take in Asia in its entirety, and concluded that the U.S. "posture

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[68] Office of International Security Affairs at the Department of Defense, "China As a Nuclear Power (Some Thoughts Prior to the Chinese Test)," 7 October 1964. Declassified by the authority of OSD (DIE, NSS) 01 July 1996. http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB1/nhch5_1.htm

[69] W.W. Rostow, "Memorandum for the President: The Implications of a Chinese Communist Nuclear Capability," 17 April 1964, in National Security Archive Electronic Briefing Book No. 1: *The United States, China, and the Bomb*. http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB1/nhch3_1.htm

should combine an implicit nuclear threat and a visible ability to deal conventionally with Communist aggression. Emphasis should be given to dual-capable and seaborne forces."[70] It was apparent that maintaining a strong stance within Asia in its entirety was more important than specifically dealing with the Chinese nuclear threat.

By mid-September 1964, 6 weeks before the Chinese test, McGeorge Bundy, National Security Advisor to President Johnson, issued a memo declaring that "we are not in favor of unprovoked unilateral U.S. military action against Chinese nuclear installations at this time. We would prefer to have a Chinese test take place than to initiate such action now." Bundy also stated that there was interest in pursuing a combined action with the Soviet Union against the Chinese nuclear threat. He thought that warnings issued jointly by the United States and Soviet Union would be useful and that "even a possible agreement to cooperate in preventive military action" would be a viable option if the Soviets were interested. The final determination on the matter was that further attempts to gather information regarding the Chinese nuclear facilities should be done in an aircraft with Chinese Nationalist [Taiwanese] markings and pilots to distract from U.S. involvement. President Johnson approved this course of action and the issue of preventive strikes against the Chinese concluded.[71] Earlier studies estimated that Soviet cooperation was improbable, and that since the "United States had not identified all of the relevant targets, an unprovoked attack would entail heavy foreign policy costs."[72] The Chinese threat could not "justify … actions which would involve great political costs or high military risks."[73]

### 3. Implications and Lessons Learned

The official Chinese announcement after the detonation 16 October 1964 stated that it was "a major achievement" and China's struggle to strengthen its defenses was

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[70] Ibid.

[71] McGeorge Bundy, "Memorandum for the Record, 15 September 1964 in National Security Archive Electronic Briefing Book No. 1: *The United States, China, and the Bomb*. http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB1/nhch1_1.htm

[72] Burr and Richelson, "A Chinese Puzzle," 45.

[73] Arms Control and Disarmament Agency release, "Destruction of Chinese Nuclear Weapons Capabilities,"14 December 1964, Reproduced in Declassified Documents Reference System, Document Number CK3100077434

needed to "oppose the U.S. imperialist policy of nuclear blackmail and nuclear threats."[74] While the White House's calmly reacted to the nuclear test, a debate continued over whether or not preventive strikes were the correct course of action.

A commentary issued after the explosion by George W. Rathjens, an official with the Arms Control and Disarmament Agency, revealed that the major flaw of the inaction strategy was the failure of intelligence to properly identify key targets and estimate the level of Chinese technology capabilities accurately. "In the light of reactions to the Chinese nuclear tests … it would appear that the political effects of the attainment of Chinese nuclear capabilities may also have been underestimated … further consideration of direct action against Chinese nuclear facilities may be warranted."[75] In addition, Rathjens realized that proper analysis of strategy in the nuclear age was ignored. He stated that:

> A relatively small investment in offensive capability can make possible destruction of very great resources, and that it is all but inevitable that the time will come when relatively weak powers will be able to inflict very great and totally unacceptable damage on much stronger ones if they acquire nuclear capabilities modest by our [U.S.] standards.[76]

As events occurred through the second half of the 1960s it was the Soviet Union, not the United States, which contemplated action against the Chinese nuclear threat, due to rising tensions along the Sino-Soviet border. The United States was preoccupied with the Vietnam War to give much consideration to the Chinese nuclear threat. As the Nixon administration came to power, the Chinese nuclear forces became useful to the United States as a deterrent against the Soviets and a balancing power within Asia.[77]

Attempting preventive strikes against the Chinese nuclear program in 1964 would have alleviated future tensions; there was no guarantee that such action could completely destroy the ambitions of Mao Zedong and the Chinese Communist effort to build their own bomb. Preemptive action would have required total destruction of all facilities and all personnel associated with the program and the Johnson administration deemed it

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[74] Cited in Lewis and Litai, *China Builds the Bomb*, 1.

[75] ACDA release

[76] Ibid.

[77] Burr and Richelson, "A Chinese Puzzle," 46.

would be too costly and most likely unsuccessful. With the U.S. preoccupation of containing the Soviet Union and the expanding war in Vietnam, issuing a lethal campaign against the Chinese nuclear program was not a top concern.

## E. CONCLUSION

The use of preemptive and preventive strikes is a not suitable course of action for every WMD proliferating state. There are many considerations that affect the outcome of an attack, but unfortunately, many of them cannot be determined until after the action has taken place. The conditions surrounding each nuclear program can alter the perception of whether or not it was a successful operation and what the effects were after the action took place.

The fact that Great Britain was already at war with Germany while its nuclear program progressed made for no political barriers to preventive attack. History books cite the costs of destroying the German nuclear program as necessary. The attack on the Norsk-hydro plant presented a target of opportunity within the greater context of war.

The Israeli preventive attack on Osirak proved to be successful in slowing down the Iraqi nuclear program, but the United States, preoccupied by the AWACS sale to Saudi Arabia, failed to give full consideration to the effects that resulted from providing the Israelis intelligence to carry out the strike. The action proved to be effective in securing Israeli national security, but the international community was disturbed by the aggressive nature with which Israel conducted the operation. The events that followed the Osirak attack attracted greater interest by the U.S. government to the intentions of Iraq and Saddam Hussein.

The lack of action taken against the Chinese Communist nuclear facilities may have been the best course of action for the time, given the other situations preoccupying U.S. foreign interests – containment of the Soviet Union and the growing U.S. involvement in the Vietnam War. Conducting a preventive action prior to the Chinese test would have involved a great deal of resources to ensure successful elimination of the Chinese nuclear technology, information, and scientists. The United States decided to co-exist with a nuclear powered China and maintained this policy to the present day. This

policy however, is greatly supported by intelligence collection to maintain accurate estimates of Chinese intentions.

Using preemptive and preventive strikes within a counterproliferation policy is not an answer for every situation, but is effective when the conditions are right. These conditions are dependent on reliable intelligence indicating the need for military action to take out a particular WMD-related target, determination that the benefits of taking action outweigh the costs of a preventive strike, and that the long term political consequences can be managed. Those ideal conditions appear to be when the world community has deemed other actions by the state unacceptable, as they were during the Second World War, or when an immediate direct threat against a state's national security is established, as was case with the Israeli perception of Iraq's nuclear program.

Preventive strikes can be a useful method of counterproliferation strategy because they offer a relatively quick response to counter an adversary's developing WMD program. Preventive strikes could be an effective course of action to disrupt Iran and North Korea's WMD related facilities without specifically targeting the regimes in power. While the post-strike political ramifications could be significant, they would be far more controllable than the implications of preventive war. Intelligence remains a critical aspect of preventive strikes and must be precise to ensure the proper target(s) are attacked to successfully remove the future WMD threat.

# IV. INTERDICTION

## A. INTRODUCTION

Interdiction, as a tool for counterproliferation of weapons of mass destruction (WMD), is potentially the least invasive and most proactive approach to the counterproliferation strategy. It has been cited as a precept of U.S. strategy during several presidential administrations, but the strict guidelines associated with interdiction operations offer a reason why it has a limited success rate. President George W. Bush's *National Strategy to Combat Weapons of Mass Destruction* cited interdiction as a key component of the counterproliferation strategy.

> Effective interdiction is a critical part of the U.S. strategy to combat WMD and their delivery means. We must enhance the capabilities of our military, technical, and law enforcement communities to prevent the movement of WMD materials, technology, and expertise to hostile states and terrorist organizations.[78]

While the intention to use interdiction, specifically maritime interdiction operations (MIO) has value, the details associated with the operational use of it are hindered by the intricacies of maritime law, the claim of states over territorial waters, the legality over seizing questionable materials, and the rights of states to engage in trade with other nations. The mere fact that U.S. and allied warships can actively stop and board suspect ships creates a deterrent for the transportation of illicit materials on the high seas. Many nations, however, continue to engage in the sea-going trade of materials associated with WMD, ballistic missiles, and dual-use technologies.

Conducting interdiction operations is a complicated task. Even with the support of other nations, the legal process of boarding ships and obtaining precise intelligence on the cargo and intended recipient of the materials, offers a loophole which WMD proliferators can exploit. The CIA estimated that Iraq earned about $3 billion in 2002 -- more than four times the 1998 amount -- by illegally exporting oil outside UN

[78] *National Strategy to Combat Weapons of Mass Destruction*, December 2002.

authorization.[79] In 1999 the United States, as a participant in the UN maritime interdiction force to enforce UN resolution 661, queried "some twenty-four hundred vessels, boarded approximately seven hundred, and diverted nineteen" to other ports.[80] North Korea, one of the world's largest weapons proliferators, transports many types of weapons materials, as well as and fully functioning weapon systems to various nations across the globe. In December 2002, a North Korean shipment of Scud missiles was seized aboard a ship off the coast of Yemen and subsequently released because there was no legal basis for the seizure. This proves that the intent of interdiction has promise in countering WMD proliferation, but legal barriers hinder its effectiveness. This chapter will review the challenges involved in maritime interdiction and examine the seizure of North Korean weapons bound for Yemen as a particular case study that highlights the problems the United States and its allies face in intercepting WMD materials at sea.

## B. CHALLENGES OF INTERDICTION AND MARITIME LAW

Although maritime law provides the guidelines for the interception of ships engaged in piracy, interdiction of WMD is never mentioned. The legality of seizing illicit cargo transported over the high seas is left to interpretation by legal professionals, individual states, and international governing bodies. In principle, vessels sailing in international waters are under no obligation to follow a nation's laws except the laws of the nation in which the vessel is flagged. According to the UN Convention on the Law of the Sea, the right of approach and visit of a vessel is permitted under international law by a "warship, military aircraft, or other duly authorized ship or aircraft [which] may approach any vessel in international waters to verify its nationality … it may be stopped boarded, and the ship's documents examined, provided there is reasonable ground for suspecting that it is:

- Engaged in piracy
- Engaged in the slave trade
- Engaged in unauthorized broadcasting
- Without nationality

[79] Bob Drogin, "How Hussein Gets 'Anything He Wants,'" *Los Angeles Times*, 23 November 2002, A.1.

[80] Roberto Suro and John Lancaster, "U.S. Navy Detains Russian Oil Tanker," *Washington Post*, 4 February 2000, A25.

- Flying a foreign flag, or refusing to show its flag, when the vessel is, in reality, of the same nationality as the warship."[81]

Under the laws of the United Nation's International Maritime Organization (IMO), all merchant ships sailing the high seas trade must carry the flag of their respective nation. If a vessel is sailing without an identifiable flag it is then is subject to radio signals by authorized warships to determine its nationality and if there is reasonable ground to believe the vessel is involved in illegal trade, they may be boarded. There are other methods to determine the nationality of vessels. All merchant vessels authorized for international trade have a number assigned to it by the IMO, an international radio call sign, and the name of the ship and its home port painted on the stern of the ship.[82] While the identification of merchant ships is relatively easy to determine upon the high seas, the contents of its cargo can only be inspected upon violation of the above stated guidelines, or when authorized by UN security resolution.

Conducting interdiction operations also entails the determination of the limits of a state's territorial waters. Maritime interdiction must be conducted on the high seas or in the territorial waters of the interdicting nation. "Every state has the right to establish the breadth of its territorial sea up to a limit not exceeding twelve nautical miles."[83] While most states adhere to this policy, others use them to engage in illegal activities. Official UN documentation states that Iran's territorial waters in the Persian Gulf extends twelve nautical miles,[84] however, it was common practice during the UN economic sanctions against Iraq that Iraqi vessels often traversed into Iranian waters to escape U.S.

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[81] Right of Visit, Article 110, United Nations Convention on the Law of the Sea, http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

[82] Marking Requirements for Vessel Documentation, Code of Federal Regulations Title 46, Volume 2, Revised as of 1 October 2002,U.S. Government Printing Office CITE**:** 46CFR67**.**123. http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=46&PART=67&SECTION=123&YEAR=2002&TYPE=TEXT, and International Maritime Organization ship numbering scheme, http://www.imo.org/Facilitation/mainframe.asp?topic_id=388

[83] Article 3, Breadth of the territorial sea, United Nations Convention on the Law of the Sea, http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

[84] Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and Oman Sea, 1993, http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/IRN_1993_Act.pdf

inspections.[85] This is done in part to ward off U.S. and coalition ships in the area and to protect their shipping trade from inspection. Vessels of other nations can also share in this protection provided they gain Iranian authorization to sail within their territorial waters. This presents a unique challenge for interdiction operations within the Persian Gulf region, since Iran has a large shipping industry and is one of the world's top proliferators of WMD. Coalition warships responsible for the tracking and interception of smuggled materials are then unable to stop suspect vessels at the point of origin because crossing the fifteen-mile line would generate unwanted diplomatic problems.

## C. CASE STUDY: SEIZURE OF NORTH KOREAN CARGO BOUND FOR YEMEN

### 1. Background

On 9 December 2002, Spanish naval forces stopped a merchant vessel 600 miles south of Yemen under the suspicion that the ship carried illicit cargo. The freighter failed to fly a national flag and the registration markings required by maritime law had been painted over, rendering it a stateless, lawless vessel, and thereby authorizing an inspection of the ship.

Spanish Defense Minister, Federico Trillo, announced during a press conference in Madrid that the Spanish frigate *Navarra* fired three bursts of warning shots at the cargo vessel after it tried to evade the warship and ignored requests for identification. Spanish snipers shot out metal cables crisscrossing the deck to allow a helicopter to hover overhead while seven armed marines were lowered down to the freighter. The freighter's crew offered no resistance. A second Spanish team then came aboard. A search of the ship, which had last docked in China, turned up 15 Scud missiles, with 15 conventional, high-explosive warheads and 23 tanks of nitric acid, all covered by sacks of dry cement. Eighty-five barrels of unidentified chemicals were also found on board.[86] Trillo said the ship was then handed over to the U.S. Navy for further inspection and seizure.

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[85] Jim Garamone, "Embargo Chief Says Iran in Cahoots With Iraq Oil Smugglers," American Forces Press Service 11 April 2000. http://www.defenselink.mil/cgi-bin/dlprint.cgi?http://www.defenselink.mil/news/Apr2000/n04112000_20004111.html. accessed 5 September 2003.

[86] David E. Sanger and Thom Shanker, "Reluctant U.S. Gives Assent For Missiles to Go to Yemen," *New York Times*, 12 December 2002, A.1.

U.S. intelligence followed the freighter *Sosan* since its departure from North Korea. The master of the ship said during questioning that the vessel was from Cambodia. A U.S. official stated that the Cambodian government informed the United States that they were unsure of the ship's flagging, but did approve of the boarding and inspection.[87] Upon further investigation of the ship's logbooks, officials determined that Yemen was the scheduled destination for the illicit cargo. The ship was detained in international waters until a decision was reached as to where the ship should be diverted.

### 2. The Decision to Release

Upon review of the operation, the Bush administration determined that although the interdiction was legal under the guidelines of maritime law, neither North Korea nor Yemen violated any treaties with the missile sale. The White House initially worried that the Scud missiles were headed for Iraq. U.S. Vice President Dick Cheney tried to persuade President Ali Abdullah Saleh of Yemen to give up delivery of the missiles, the same kind Yemen bought from North Korea before.[88] Given Yemen's stature as a crucial Arab partner in the U.S. led war on terror, concessions had to be made to maintain the much-needed cooperation with the Yemeni government. Yemen maintained that the Scuds were for defensive purposes only and the *Sosan* carried the final shipment of an old order. Yemeni officials therefore demanded the missiles be handed over and the Bush administration complied under the guarantee that the missiles were not to be transferred to any other state or organization and that no further missile technology sales would be arranged with North Korea. The release of the missiles to Yemen troubled the White House because U.S. intelligence agencies believed North Korea uses the hard currency from sales of its Scud and Nodong missiles to pay for both its missile program and its effort to develop nuclear weapons.[89]

### 3. Implications and Lessons Learned

Even with the dissatisfying outcome, the seizure of the North Korean missiles had one redeeming effect: "America can detect clandestine arms shipments and, with its

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87 "North Korea Calls Ship Seizure 'Piracy'," CBS News, 12 December 2002, http://www.cbsnews.com/stories/2002/12/12/world/main532751.shtml, accessed 31 August 2003.

88 Sanger and Shanker. "Reluctant U.S. Gives Assent For Missiles to Go to Yemen."

89 Ibid.

allies, stop them at sea."[90] The incident proved that North Korea is proliferating missile technology and illustrated how the Bush administration can avoid alienating nations, like Yemen, deemed vital to its counterterror campaign.[91] Some international lawyers say legal papers could have been used in an attempt to detain the ship indefinitely. Since the vessel was not flying a national flag, the vessel could have been held until its last legal owner claimed it. In this case, Cambodia could have offered permission to destroy the cargo or insist the cargo be locked up, since it was shipped under false manifest.[92] Employing such tactics, however, would have generated further problems requiring diplomatic efforts between the United States, Yemen, North Korea, and Cambodia, and would have strained alliances or on-going nonproliferation negotiations. The deciding factor was the importance of Yemen as a partner in the war on terror. It was the hunt for Al Qaeda that actually made the seizure possible in the first place. During the war in Afghanistan, the United States organized coalition patrols in and near the Arabian Sea to stop terrorists from escaping to uncontrolled regions in the Horn of Africa.[93]

The release of the unmarked ship and the missiles was an embarrassing diplomatic end to an otherwise successful military interdiction of North Korean missiles. The timing of the seizure coincidently occurred on the day the Bush administration sent Congress the new *National Strategy to Combat Weapons of Mass Destruction* document, that promotes the U.S. strategy of interdiction of WMD and associated technology.

## D. THE PROLIFERATION SECURITY INITIATIVE

As a result of the North Korean interdiction scandal and the on-going problems associated with international intelligence sharing for effective interdiction, President George W. Bush called for the creation of the Proliferation Security Initiative (PSI), in Poland on 31 May 2003.[94] The initiative obtained support from eleven countries - Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the

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[90] Thom Shanker, "If Scuds Were Going to Iraq," *New York Times*, 15 December 2002, 4.6.

[91] Thom Shanker, "Freighter, Interrupted," *New York Times*," 15 December 2002, 4.2.

[92] Shanker, "If Scuds Were Going to Iraq."

[93] Ibid.

[94] Bradley Graham, "Gaps in Plan to Halt Arms Trade: Legal Authority for Intensified Interdiction," *Washington Post*, 3 August 2003, A.23.

United Kingdom, and the United States – and its primary focus is preventive interdiction. The function of the PSI is to detain and search ships, aircraft, and vehicles suspected of carrying WMD-related material to and from countries of "proliferation concern" (in particular, North Korea and Iran), as soon as they enter member countries' territory, territorial waters, or airspace. It also encourages member countries to deny over-flight rights to suspicious aircraft or ground them when they stop to refuel.[95]

Asia, the Middle East and Europe, are the primary surveillance areas for the initiative, but debate continues over how much legal authority this plan has. U.S. officials claim that international law provides sufficient room to conduct the necessary operations, and all that it needed is further international coordination and enforcement. As of early August 2003, the Bush administration had no plans to seek UN Security Council approval for the Proliferation Security Initiative, but "will operate under the 'inventive use of national laws,' rather than attempt to re-write existing international law, which prohibits stopping vessels on the high seas or grounding aircraft in international airspace."[96]

International law is likely to be a hindrance to the implementation of the initiative. UN approval may then be required, a process the United States is less than confident about. Aside from settling the legal issues, the success of the PSI depends in large part on the implementation of logistics dictating what member country will assume responsibility for operations, decisions regarding economic funding for global operations, and the support and participation of critical nations such as China and Russia.

## E. CONCLUSION

Interdiction offers a promising course of action to take against the transfer of weapons of mass destruction on the high seas, but it fails to be a reliable method for all situations. The successes of interdiction are often classified, but the failures are what signify the problems and challenges that face the strategy. The implementation of interdiction into the counterproliferation strategy should be encouraged and the military services should continue their efforts, but the legal issues and challenges associated with

95 Nicholas Kralev, "U.S. Seeks Asian Aid for Ship Searches," *The Washington Times,* 17 June 2003, A01.

96 David E. Sanger, "Cracking Down on the Terror-Arms Trade," *The New York Times,* June 15, 2003, 4.4.

conducting maritime intercept operations need to be settled before interdiction can be adopted as a dependable practice.

The proliferation of weapons of mass destruction poses a threat to the United States and the international community, and intercepting associated materials before they have a chance to contribute to a state's WMD program is an effective way to manage the proliferation problem. Determining how, when, and what dual-use technologies and fully functioning weapons are being transferred is the primary challenge facing U.S. and allied interdiction operations. With the implementation of the Proliferation Security Initiative, the issues of information sharing could be alleviated, but the debate over international law and regulations will continue to hinder interdiction operations. A review by the International Maritime Organization will be required at some point to declare the efforts of the PSI legitimate, since it is the internationally accepted governing body regarding laws of the sea.

North Korea, and other proliferating nations will continue to evade inspections and attempt to circumvent the internationally accepted laws of the sea. While allied forces may prove successful in some instances of interdiction, weapons and associated materials of WMD can still slip through the intelligence, interdiction, and inspection process. Policy makers should continue to apply interdiction in the counterproliferation strategy because the practice of tracking and monitoring suspect ships can generate valuable intelligence for future use even if the cargo cannot be captured. Interdiction is an appropriate and necessary action to counter the proliferation of WMD, but the ambiguity of international law will always cause impediments to effective operations.

# V. CONCLUSION

Preventive war and preemptive actions are unpredictable and unreliable counterproliferation strategies, but in some instances they provide possible alternatives to address the growing proliferation threat. The *National Security Strategy* and *National Strategy to Combat Weapons of Mass Destruction* published by the Bush administration in 2002 set an aggressive policy to address the global problem of weapons of mass destruction counterproliferation. The strategies prescribed in the documents, preemption, preventive war, preventive strikes, and interdiction, are not necessarily viable courses of action for every situation. The Bush administration promoted preemptive and preventive action as a necessary course in defeating the proliferation of weapons of mass destruction, but in practice, preventive war, preventive strikes and interdiction have limited utility as instruments of U.S. policy.

The *National Security Strategy* and *National Strategy to Combat Weapons of Mass Destruction* documents, while purposeful in their intent to portray the United States as a nation unwilling to proceed with strategies of the past, have raised important questions regarding their legality, and strained relations between the U.S and its allies. Because of these concerns, implementing these tools into a successful operational strategy is difficult. As was seen in the case studies analyzed in the previous chapters, the geopolitical conditions and legal concerns associated with each case were important in determining the necessity of preventive action. Only post-operation analysis could determine the true success or failure of the operations.

Preventive war is not a quick solution to an emerging threat. Clear political and military objectives for war must be addressed prior to commencement of hostilities. The primary objective of a preventive war is destruction of a state's WMD capabilities, but may also include the removal of the attacked state's leadership from power. The military capabilities of the adversary, specifically the potential for retaliation, must be analyzed in order to weigh the cost of the war against the removal of the WMD threat. Precise intelligence on the adversary's WMD capability is essential in order to strike before it reaches operational status.

After the Second World War, the United States feared the emergence of a nuclear powered Soviet Union, because of its geographical size, its military, its influence on Europe, and its potential to spread communist ideals across the globe. The question of whether or not to engage in a preventive war against the Soviet Union resulted in political debate over the viability of dismantling not only the Soviet nuclear program, but also the communist regime. Through the persuasion of a few key individuals in the U.S. State Department and White House, the strategy of containment prevailed over preventive military action. Although the United States expected the Soviet Union to crumble under its own misguided leadership, it took far longer than initially estimated. Thirty years of Cold War, under threat of mutually assured destruction, and peripheral international hostilities resulted from the containment strategy.

The United States implemented a containment strategy once again in 1991, with the goal of dismantling the emerging WMD programs of Iraq and the Saddam Hussein regime. After repeated violations of UN Security Resolutions and growing suspicions that Iraq was close to developing a usable nuclear weapon, the Bush administration determined that preventive war was the only alternative to thwart the future nuclear threat. Operation Iraqi Freedom began in March 2003, and removed the Saddam Hussein regime. The challenges that followed the war, however, proved to be more significant than the operational objective of removing Saddam Hussein from power. Failures to immediately identify Iraq's WMD materials and to institute a stable new government both challenge the claim that preventive war was necessary.

Preventive strikes, present a different set of operational objectives than preventive war. Specific targeting of a state's WMD, more specifically nuclear, facilities offers less operational challenges because their intent is not to remove the government from power, but only to remove the future threat of nuclear weapons. Preventive strikes, when conducted in the proper geopolitical environment, can be an effective tool in the counterproliferation strategy. Determining post-strike implications is difficult, but a successful mission can alleviate an impending threat and possibly allow other methods of counterproliferation and nonproliferation to work in the future.

During the Second World War, while the United States was preoccupied with the Manhattan Project, the Great Britain took the lead in dismantling the German nuclear

program. Intelligence indicated that the Nazi nuclear program relied on the research conducted at the Norsk-Hydro heavy water plant in Norway. The four preventive strike operations conducted by the allies succeeded in eliminating the German supply of heavy water required for its nuclear research program. Although the allies eventually succeeded, the methods used to destroy the program were only justified because they were part of an ongoing larger war.

When Israel determined that Iraq's nuclear program posed a great threat to its national security, it ordered a preventive strike against the Osirak reactor. While the mission was successful in destroying the reactor and postponing Iraq's nuclear capabilities for many years, the international criticism that followed the attack proved detrimental to Israeli foreign relations. The strike was initially perceived to be a preemptive attack, indicating the Iraqi nuclear threat was so severe, that it required an immediate response to alleviate the threat. It was later determined that the strike was preventive in nature and that the Iraqi nuclear program was years away from building a usable weapon.

During the early 1960s, the Johnson administration was confronted with the threat of a nuclear communist China. Some U.S. officials pushed for preventive strikes against the Chinese nuclear facilities, but precise intelligence on their locations, operations, and timeline for testing was minimal. President Johnson's cabinet members determined preventive strikes were not a good strategic option, because the United States could cope with a nuclear-powered China. The United States later realized the nuclear threat from China was a valuable deterrent against the Soviet Union.

Interdiction is the least destructive method of counterproliferation strategy, but the legal barriers associated with international trade, and the intricacies of maritime law provide many challenges to its successful operational implementation. The intention to halt WMD materials and dual-use technologies before they reach operational status is admirable, but the complexities of the interdiction process are the greatest hindrance to its success. The interdiction of North Korean missiles by vessels of the Spanish and U.S. Navies demonstrated the potential of this strategy, but legal and political issues forced the release of the illicit cargo to its destination in Yemen. Even with the development of the

Proliferation Security Initiative, the effectiveness of interdiction will remain limited until international trade and transportation laws are altered.

The current threat WMD threat from Iran and North Korea poses a great deal of risks, however, limited uses of preventive action could have some value in eliminating those threats. While the U.S. military has the strength to win a preventive war, initiating one against Iran or North Korea would not be a wise option and would involve greater challenges militarily and politically than was seen during Operation Iraqi Freedom. Both states have stronger militaries, better conventional weapons and may use the preventive attack as an excuse to target neighboring states. Therefore, international support would be essential in both cases. A ground war in North Korea would include a long difficult process to remove Kim Jong Il from power. Preventive war in Iran would disrupt the gradual and delicate political uprisings led by the dissatisfied public to overthrow the Islamic fundamentalist regime currently in power. This process should be allowed to mature, but the WMD threat should not be ignored. Preventive strikes pose the best option in addressing the WMD threat from Iran and North Korea, depending on the immediacy of the threat. Open source reporting indicates a strong collection drive for information on both country's' WMD related targets. Precise intelligence could make a preventive strike effective in disabling their WMD programs. Interdiction operations should continue to track suspect vessels and cargo in and out of the Persian Gulf and throughout the Pacific in order to gain further information on Iranian and North Korean proliferation efforts, even if illicit cargo cannot be seized under international law.

The purpose of preventive war, preventive strikes, and interdiction within the current U.S. counterproliferation strategy is to present to the world that the previous methods used to curb WMD proliferation failed and that a more aggressive approach was needed. Each technique has value in the overall strategy, but these aggressive counterproliferation methods cannot be used against every adversary attempting to acquire nuclear, chemical, or biological weapons.

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